

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER J. HULL,

Plaintiff,

v.

5:22-cv-01084
(TJM/TWD)

UNITED STATES OF AMERICA,

Defendants.

APPEARANCES:

TERRY J. KIRWAN, JR., ESQ.
Kirwan Law Office
Counsel for Plaintiff

EMER M. STACK, ESQ.
Assistant United States Attorney
Counsel for Defendant

THOMAS J. McAVOY, Senior United States District Judge

ORDER

This action, sounding in negligence and medical malpractice, brought pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2671 et. seq., and 28 U.S.C. § 1346, was commenced in October of 2022. (Dkt. No. 1.) Thereafter, a Uniform Pretrial Discovery Order was issued and discovery commenced. (Dkt. No. 10.) On June 15, 2023, a joint status report was filed by the Defendant which indicated that Plaintiff died on May 22, 2023. (Dkt. No. 14.) The Court construed the report as a statement noting the Plaintiff’s death pursuant to Rule 25 of the Federal Rules of Civil Procedure. (Dkt. No. 15.) The Court further indicated that a motion for substitution

of the proper party representative “must be made within 90 days from the date of this Text Order, or the action by decedent must be dismissed.” *Id.*; see also Fed. R. Civ. P. 25(a)(1).

As of the issuance of this Order, more than 90 days have passed since the statement noting the death of Plaintiff was filed. No motion to substitute a representative of the decedent has been filed, and no request for an extension to file such a motion has been received by the Court.

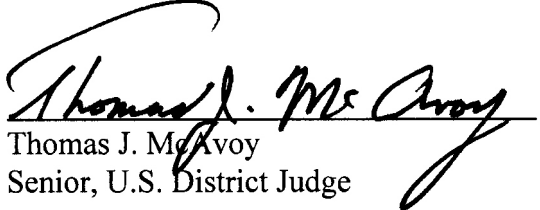
Therefore, the action must be dismissed. Fed. R. Civ. P. 25(a)(1).

Accordingly, it is hereby,

ORDERED, that this action is dismissed; and it is further

ORDERED, that the Clerk of the Court shall enter judgment in Defendant’s favor and close this case.

Dated: October 5, 2023
Binghamton, New York


Thomas J. McAvoy
Senior, U.S. District Judge